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# ADDRESS OF THE DELEGATES

COMPOSING THE

# NEW STATE

# CONSTITUTIONAL CONVENTION

TO THEIR

# CONSTITUENTS.

**Adopted February 18th, 1863.**

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FELLOW-CITIZENS: Your delegates in convention having made the change in the constitution proposed by Congress, have submitted the same, as amended, for your final ratification or rejection, at an election to be held on the twenty-sixth day of March next.

Before remarking on the proposed change, we call your attention to some of the features of the Constitution which differ from the system to which you have been accustomed. The most important is that which abolishes the county courts. In this we have the sanction of your frequently expressed opinions, and of the almost unanimous action of your delegates in the Constitutional Conventions of 1829 and 1850. Whatever may have been the merits of these courts as judicial tribunals, for which purpose the establishment of the circuit courts made them unnecessary, their inefficiency as administrators of county affairs, owing mainly to their want of adaptation to the purpose, has been apparent. The union, in one body, of judicial, legislative and executive powers, is sufficient to condemn them.

To supply their place in the judiciary we have raised the jurisdiction of the justices and increased the number of the terms of the Circuit Courts, by which much unnecessary expenditure will be avoided. To secure a just and faithful administration of the fiscal and other concerns of the counties, they are sub-divided into townships, each of which elects annually a member of a county board charged with such administration; but to the people of each township is reserved the right to transact, under such regulations as the Legislature may prescribe, the public business relating exclusively to their township. In short, the endeavor has been

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May 1913

made to apply practically the maxim of Montesquieu, that "in a democracy the people ought to do for themselves whatever they conveniently can; and what they cannot do themselves, they should commit to the management of ministers chosen by themselves."

Objections are made to the township system on account of its novelty. It is indeed a novelty in practice in Virginia, but is not now first proposed. When the defects of the first State Constitution became apparent, and the propriety of revising it began to be discussed, Mr. Jefferson, in letters to different correspondents, proposed the division of the counties into wards. In one letter he says: "These wards, called townships in New England, are the vital principle of their governments, and have proved themselves the wisest invention ever devised by the wit of man for the perfect exercise of self-government and for its preservation." He also says that this system, "by making every citizen an acting member of the government, and in the offices nearest and most interesting to him, will attach him by his strongest feelings to the independence of his country and its republican constitution." In another letter he says: "The wit of man cannot devise a more solid basis for a free, durable and well administered republic."

In the convention of 1829–30, the late Judge Lewis Summers, a distinguished jurist and an earnest and active friend of the West, proposed the adoption of the ward or township system; but it was defeated by a vote of fifty-two to thirty. This was the convention that feared to trust the people with the election of any officers besides members of the General Assembly, and whose constitution was condemned by the counties west of the Alleghanies by a vote of nearly twenty thousand against less than one thousand.

By the constitution now presented, the legislative power of the State is vested in a Senate and House of Delegates. This power would be supreme in all cases were it not limited by the State and National constitutions. The restrictions inserted in the constitution now proposed, to prevent the abuse and the unnecessary use of this power, cannot be enumerated in this address. Your attention, however, is called to the fact, that in all practicable cases, the Legislature is required to act by general laws. This obviates, to a great extent, the necessity for special legislation, and discourages that private solicitation of the members, the tendency of which is to introduce corruption and bribery as elements of legislation. It will also tend to shorten the sessions, and thus economize expenditure.

The system presented for your adoption contemplates, as before remarked, that the people of each township will, to a certain

extent, have the personal superintendence and direction of the public business relating exclusively to their township; the county boards of that which concerns two or more townships of their county, and of the general county affairs; while all that concerns two or more counties, or the State at large, will devolve on the Legislature, as under the national constitution that which concerns two or more States, or the whole Union, is confided to Congress.

There are no fundamental changes in the executive and judiciary besides those already noticed. The three great departments of government are practically kept separate and distinct, so that neither can exercise the powers belonging to either of the others, and no person can be invested with, or exercise the powers of more than one of them at the same time. These rules are applied to the county as well as to the State organization.

In the proposed system of taxation and finance, an attempt is made to equalize the burdens of the people, and to prevent extravagant, wasteful and profligate expenditures. Besides a small capitation tax on white males over the age of twenty-one years, taxes are to be laid on property of every kind in proportion to its value, so that no one species of property can be taxed higher than another of equal value. No debt is to be contracted except for merely temporary purposes, or in cases of great exigency, such as war or public danger; and the credit of the State is to be loaned only in the latter contingency. The State cannot become a stockholder in a bank on any terms, or in any internal improvement company for an amount greater than can be paid for out of funds in hand, or by a tax levied the ensuing year.

The experience of the re-organized government makes it morally certain that, in a time of peace, the amount to be raised by taxation within the new State will be greatly below former experience, even after it has assumed its equitable proportion of the debt of the State of Virginia, contracted before January, 1861. On the other hand, the expansion which will certainly be given to the population, business and value of property of the new State by legislation adapted to its wants and condition, and tending to the development of its resources, will greatly augment the ability of the people to pay such taxes as may be found necessary.

Not the least beneficial feature of the proposed constitution is that which relates to forfeited and unappropriated lands. The land office, so often denounced, even by Eastern men, for its iniquitous operation and demoralizing tendency, and as the source of general and interminable litigation in the West, is finally and forever closed. All private rights and interests in land derived from the State of Virginia, including entries that have been perfected, are secured. Tracts of land forfeited for non-payment of taxes

not exceeding twenty dollars, or for the non-entry on the books of the Commissioner of the Revenue where the quantity does not exceed one thousand acres, are, by the constitution itself, exonerated from forfeiture and from the payment of the taxes and damages charged or chargeable against them. Lands forfeited prior to 1832, and not again forfeited or sold, or by subsequent forfeiture or purchase at the sheriff's sales vested in the State, unless exonerated as above, or redeemed within five years, will be condemned and sold under proceedings to be instituted in the circuit courts, and a perfect title given to the purchaser, while the former owners will be entitled to receive the excess of the purchase money over the taxes, damages and expenses of condemnation and sale.

Provision is made for the education of the children of the State by the establishment, at no distant day, of a system of free schools, and the accumulation of a school fund, to be derived from the extraordinary revenues of the State, or from other sources than taxation. The division of the counties into townships, makes such a system, heretofore thought impracticable by many on account of the sparseness of our population, entirely possible if the people desire it. It will be for the voters of each township to determine how efficient the system shall be within their boundary by their voluntary taxation of themselves for the purpose.

Among the miscellaneous provisions of the proposed constitution is one intended to aid the development of all the material resources of the State. It provides that any number of persons associated for a purpose useful to the public, except the issuing of bills to circulate as money or the construction of a work of intereal improvement, may become a corporation under general laws to be passed by the Legislature, and amendable at their pleasure by like laws. This takes away from such corporations the character of monopolies, and avoids the occasion for that personal solicitation of the members of the Legislature, which, as above remarked, has been the fruitful source of evil. The confinement of the action of the Legislature to general laws in reference to those practical matters which concern every citizen and every section of the State, gives assurance that, if not at first, yet speedily, those laws will receive that form which is most in accordance with the united wisdom and experience of the whole population. This illustrates the true theory and object of representative government.

The changes in the fundamental law above noticed, and others, perhaps not less beneficial, prove the necessity of our separation from the East if we would promote our moral and material prosperity. In the sight of God and man this is our sacred duty to ourselves, to those now dependent upon us, and to those who will hereafter occupy our places. Inequality of representation and

taxation, had that been all, we might have borne until increased population gave us the power to correct it. But when the legislation of the Eastern majority was directed to our injury; when we were heavily taxed for the construction of Eastern improvements, and repeatedly denied the legal power to make them in our own section without the pecuniary or other assistance of the State, when there were open and avowed endeavors to prevent, or at least discourage, our increase in population; when, in short, we found we were not considered or treated as equals in the commonwealth of which we were part, we should have been more or less than men if we had submitted to the intended degradation, and not resolved to right ourselves when the opportunity occurred.

Since so many of the other portion of the State embraced the cause of secession and rebellion, they have been more bold in their denunciations and more open in their exhibitions of hostile feelings, and have avowed their intention to subject us to a moral subjugation or to drive us into exile. Our offence has always been our devotion to those principles of free government which we learned from the fathers of the commonwealth, but which they have repudiated, and is aggravated by the fact that we still cling to that Union which their fathers and ours assisted in forming. They declare their intention, whatever may be the issue of the rebellion, to destroy the line of railroad constructed through our section without their assistance, and maintained, notwithstanding their adverse legislation, in order to destroy with it our business and personal intercourse with other States, and to prevent the increase of our population. They have recently attempted to repeal the more liberal provisions engrafted in the present constitution, mainly by the efforts of Western statesmen, and to renew the provisions of the constitution repudiated by the people of the West in 1830 with almost entire unanimity, and again to govern us by a centralized oligarchy.

Fellow-citizens, while so many of you were witnesses of the indefatigable exertions of our Doddridge, our Summers, our Campbell, and so many others, who, nobly but in vain, fought for our political enfranchisement in 1820 and 1830, are you prepared to repudiate their principles and condemn their conduct by a voluntary subserviency to those by whom you have been oppressed? We trust there are none among us capable of such self degradation.

There are considerations of a different character which also make the separation of the two sections desirable if not indispensable. There is little in common between them. Their views and policy in reference to various matters are diverse, if not antagonistic. The characteristics and social conditions of the two populations are different. The West is hilly, or mountainous, is for the

most part in a state of nature, and may be made to afford a variety and abundance of mineral products; while the section occupied by those who have always, by their power or their influence, ruled the State, is, for the most part, easy of cultivation and has been cultivated for many years, and its leading products are agricultural. The directions of the channels of trade and the commercial relations of the two sections, divided as they are by a lofty range of mountains impassable by the rail car or canal boat, are necessarily not the same. In the West there are few enjoying acquired fortunes or hereditary wealth; few who are exempt from personal labor of the hand or head, and the equality of condition of the people is most remarkable. In the East great diversities exist. The men of wealth and their descendents and connections fill the offices and occupy the seats in the Legislature, thus excluding their poorer neighbors from all actual participation in the government. How is it possible that with such diversities the citizens of either section can acquire that practical knowledge of the wants and condition of the other, without which they cannot, if ever so well disposed, intelligently legislate for them.

Under these circumstances it is surprising that any West Virginian should hesitate as to the course which both duty and interest now call upon him to pursue. There are, however, some who are indifferent, and some who openly oppose the formation of the proposed State; and among both classes are some who heretofore favored the separation. Various objections are urged against it, none of which, however, include a denial of the fact that West Virginia will be greatly benefitted by taking the principal charge of her own affairs. The objections that would deter her from doing so, should be at least as weighty as the arguments that urge her on. Let us, therefore, candidly examine the objections that are made with a view of determining to which side duty should incline us.

The objection most insisted on relates to the change of the seventh section of the eleventh article of the constitution. By some it is urged that the imposition of a condition by Congress on the admission of a new State into the Union is a dangerous precedent, and derogatory to those accepting it. This objection comes too late. The precedent is already the rule rather than the exception, as few States have been admitted without the acceptance of some condition prescribed by Congress. Changes of boundary, the taxation of public lands, trial by jury, the use of the English language in public proceedings, as well as the prohibition of slavery, have been the subjects of these conditions. The admission of new States by Congress is not, under the United States constitution, obligatory, but merely discretionary. The words are: "New States *may* be admitted into the Union." It is as true in law as

in mathematics, that the greater includes the less. If Congress can constitutionally refuse its consent to the admission of a State, it may certainly prescribe terms of admission within constitutional limits.

This objection would not probably be pressed if the alleged condition related to some other subject than slavery, or if that subject had not been for so many years an element of party strife. There is so much prejudice, both for and against its existence in any locality, that the merits of a particular case are overlooked or ignored, and the prejudices on the general subject are permitted to decide it. With the latter we shall not concern ourselves in this address, as we do not think the abstract question of the propriety of the continuance or abolition of slavery should affect the vote you are called upon to give. The true question for your decision is, whether the continuance of the slavery existing within the limits of the proposed State promises any practical benefit to its people, and if so, whether the promised benefit is sufficient to induce you to forego the many positive and decided advantages which you can not obtain unless the proposed State is erected?

There is one class of objectors whom we do not desire to conciliate while they retain their present views, and to whom, therefore, we have nothing to say. Of those who are traitors in heart, if not yet in act, and whose sympathy with rebels in arms has overcome their consciousness of duty to their country, it is sufficient to remark that their opposition is necessarily factious, and their object the injury and not the welfare of their loyal fellow-citizens. But there are others whom we are earnestly desirous to convince that the proposed State is worth greatly more than the price that will, in any event, be paid for it; and that the effort to secure it now, is not only sanctioned but demanded by every consideration of duty to themselves and their posterity.

The convention at its first session were nearly equally divided as to the propriety of inserting in the constitution a clause providing for gradual emancipation. There was at that time no one in or out of the convention who contended that the perpetuation of slavery, as it existed in the proposed State, would be of any practical importance. Some desired to avoid the contention the agitation of the question would inevitably engender, while others thought that without the insertion of such a clause the consent of Congress would not be given. It was admitted on all hands, and cannot be denied, that causes, unconnected with the rebellion, and beyond human control, were at work, which within a very few years must extinguish slavery within the proposed State. It was not denied that in a grain growing, manufacturing and commercial community, the labor of slaves is unprofitable, except perhaps as

domestic servants. It was known that in twenty-seven of the forty-eight counties there had been a decrease in their respective numbers of slaves from 1850 to 1860, and in only thirteen counties an actual increase. The numbers in the years given were 14,210 and 12,783. The decrease was 2661, and the increase including those in the eight counties formed after 1850, was 1234; giving a net decrease of ten per cent, or 1427, to which should be added a number equal to the whole natural increase. Those therefore who opposed the emancipation clause, did not contend that its insertion would injuriously affect the proposed State; but, on the contrary, insisted, that the causes mentioned above would extinguish slavery more rapidly and surely than any system of gradual emancipation could, if their operation was withdrawn.

Under these circumstances a compromise clause was agreed on, received the unanimous vote of the Convention, and was inserted in the Constitution. It provided, simply, that slaves should not be brought into the State for permanent residence, and was accepted and ratified by the vote adopting the Constitution in April 1862. Thus both the Convention and the people have signified their willingness, that the natural causes tending to the extinction of slavery should not be counteracted in their operation. There were slaveholders both in the Convention and among the people, who voted for this compromise, and they must be allowed to be as able to determine what their interests require or permit, as many among the most vociferous of the objectors who have no personal interest in slavery. That it is doomed to rapid diminution, whether aided by law or constitution, or not, must be apparent to every intelligent citizen.

The question then presents itself for your consideration, whether the great and important advantages you are sure to derive from the erection of the proposed State, shall be postponed until slavery dies the natural death to which it is hastening? This is what you are called upon to do when asked to reject the amendment proposed by Congress. Slavery cannot be perpetuated by its rejection; and, as it exists among us, it cannot be of any service in a public point of view. With or without emancipation, the proposed State will be to all intents and purposes a free State, and its legislation and social condition will necessarily be controlled by that fact.

The amendment proposed by Congress strikes out the whole of the seventh section of the eleventh article of the Constitution, including the clause prohibiting the immigration of free negroes. The objectors allege that this opens the State to that class of population. Had they looked at the section immediately following, they would have seen that the laws of Virginia will remain in force

within the proposed State until altered by its own legislature; and they cannot be ignorant that a law forbidding such immigration is in the Code. Almost all the northern states prohibit it, but only two or three by constitutional provisions. The rest, like Virginia are content with legislative enactments on the subject, and the power of the legislatures of the States to pass such laws has not been seriously questioned. The act of Congress declares that West Virginia shall be "admitted into the Union on an equal footing with the original States in all respects whatever." The so called condition imposed by Congress cannot, by even a forced construction, be tortured into a prohibition of the exclusion of free negroes. It requires no more than that the emancipation clause proposed by them shall be inserted in the Constitution.

These keen eyed objectors, many of whom find in the United States Constitution a warrant for the alleged right of secession, have constitutional scruples about the power of Congress to admit the proposed State into the Union under any circumstances. By separating a clause from its context, they make that instrument absolutely forbid the formation and erection of a new state within the jurisdiction of any other State. They have the misfortune to differ with Mr. Madison; who, in the forty-third number of the Federalist, while commenting on the section of the United States Constitution now in question, observes, that "the particular precaution against the erection of new states, by the partition of a State without its consent, quiets the jealousy of the larger States; as that of the smaller is quieted by a like precaution against a junction of States without their consent." But if the contemporary exposition of "the father of the constitution" is not sufficient to convince these very strict constructionists, this objection, like another noticed above, comes too late. Congress many years since consented to the formation and erection of the States of Vermont, Kentucky and Maine, within the jurisdiction of other States, the second having been formed and erected within the jurisdiction of Virginia.

But the objection most relied on is that which denies that any competent legislative consent has been given to the erection of the State of West Virginia. This objection implies that the usurping body sitting at Richmond, and pretending to exercise legislative authority, but in open rebellion against the United States, is the true legislature of Virginia, one of those States; or that the State is without a legitimate government. Those who uphold the first alternative uphold rebellion and are secessionists and traitors, with whom, as before observed, we, and we trust our constituents, have nothing to do until they divest themselves of that character. The second may be honestly entertained by some who are not familiar with the history of similar events, or with the verdict of all free

nations in similar cases; or by those who have not sufficiently examined the subject. Sincerely desirous to vindicate the authority under which we have been and are now acting, we ask your further attention while, as briefly as possible, we relate the events which led to the restoration of the state government, and cite the precedents which sanction that most solemn and formal proceeding.

Soon after the secession of the planting states, the then legislature of Virginia was called to meet in extra session at Richmond early in January 1861. Among their first proceedings, was the passage of an act directing an election to be held on the ensuing fourth of February for Delegates to a Convention, which was directed to assemble at Richmond on the thirteenth of the same month, and to "proceed to adopt such measures as they may deem expedient for the welfare of the commonwealth." What this meant was easily understood, as the same act provided that at the time of the election of the delegates, a separate poll should be opened "to take the sense of the qualified voters as to whether any action of the said convention dissolving our connection with the Federal Union, or changing the organic law of the State, shall be submitted to the people for ratification or rejection." A large majority of the delegates elected were professedly opposed to secession, thus indicating that at least a proportional majority of the people, distributed in nearly every section of the State, were also opposed to it. A majority of nearly sixty thousand demanded that any action of the convention contemplating secession should be submitted to the people and receive their ratification before it became of force.

It is not intended to discuss here the alleged right of secession which has been amply elucidated by abler pens. We plant ourselves upon the doctrine asserted by Virginia herself, in her ratification of the constitution of the United States. In that instrument, speaking by the mouths of some of her ablest statesmen ("there were giants in those days") she says, "that the powers granted under the constitution, being derived from *the people of the United States*, may be resumed *by them* whensoever the same shall be perverted to their injury or oppression." There is no mistaking the force and import of this language. It, in express terms, asserts, that the Union can be dissolved only by those who made it, the people of all the States, and by them only in the extreme case of a palpable perversion of the powers granted, to their injury or oppression. The act of ratification has for Virginia all the force of a declaration of rights, or a constitutional provision. The act calling the convention for the purpose avowed on its face, and all the proceedings and ordinances of that assemblage in reference to "dissolving our connection with the Federal Union," whether by peaceable means or by force, being in derogation of

an organic law, are therefore illegal, null and void, and no ratification by the people of a single State can give them validity or effect.

But admitting, for the moment, that without even an allegation that the powers of the Federal Union had been perverted to the injury or oppression of the people, a legislative act could give authorty to a convention to dissolve the connection of the State with the Union, and that an ordinance fairly passed by the latter in due parliamentary form and ratified by the vote of a majority of the qualified voters, would be effective for the purpose, we deny that any such ordinance has been so passed or ratified. When the convention assembled, the hired ruffians brought from states farther south for the purpose, who until that time had beset the legislature, began their work of intimidation within and without the hall where the convention held its sessions. Western members were threatened and spit upon from the galleries while in their seats, and mobbed and assaulted on their egress from the hall.

Under such circumstances, the so called secession ordinance was passed in secret session and directed to be submitted to the voters. But before the fact of its passage was allowed to be made known, or its provisions had been published, the convention, which by that time, with the consent of a subservient Governor and other State officers, had practically usurped the powers of both the legislature and executive, despatched their armed emissaries to take possession of the National Armory at Harper's Ferry and to obstruct the entrance to the Gosport Navy Yard, and had begun to levy troops with a view to the capture of the National Capital, and the overthrow of the National Government. Thus was the State plunged into rebellion and its consequences, without the sanction and even without the previous knowledge of the people. In the black catalogue of crime which disgraces humanity, these acts of the iniquitous and perjured leaders of the secession movement in Virginia, will be forever prominent.

But these were not all. Again before the vote to ratify or reject their traitorous ordinance was taken, they entered into a league with the so called Confederate States looking to the accession of Virginia to that rebellious organization. By a special provision, to take effect immediately, "the whole military force and military operations of the State," were placed under the control and direction of the pseudo confederacy "for offensive as well as defensive purposes." Allow that their whole proceedings were revolutionary in the best sense of that word, it would nevertheless seem that no such steps should have been taken without the previously expressed direction of the people; but even after their accomplishment they did not pretend to submit these measures to the voters. They merely directed that if the secession ordinance

was negatived, these should be deemed and taken to be annulled.

At length the day appointed to take the vote of the people for or against the secession already in operation, arrived. Every means of intimidating the voters who had not already been driven from their homes, and who still clung to the Union, was used. The military, a portion of which was brought from other seceding states, beset the polls; threats of personal violence were made, and intimations were broadly given that those who would not acquiesce in secession would be compelled to leave the state. Whatever may have been the result of that vote, we repudiate it on account of this intimidation, as well as on account of the illegality of the convention and its acts. That which was wrong in its inception, could not be made right by subsequent proceedings which did not change its character.

These high handed and violent acts of the usurpers compelled the people to abjure their allegiance to the United States, or to denounce the authority of the Richmond oligarchy. Those charged with the administration of the State government, had voluntarily submitted to a jurisdiction unknown to the convention and laws, and had thus practically vacated the offices with which they had been charged. With great unanimity the people of West Virginia determined to remain faithful to the State and National constitutions and laws to which they had been accustomed. If they remained loyal, and could prevent their section of the State being occupied by the rebel forces, it was a necessity, in order to avoid a state of anarchy, that some government should be constituted to take the place of that which had been subverted.

On the 13th of May 1861, by a movement almost spontaneous, the loyal people of the north western counties assembled in mass meeting at the City of Wheeling, to deliberate on their condition and the steps it behoved them to take. After much discussion, the result was that they invited the loyal people of the whole State to assemble in convention at the same city, on the eleventh of June then next, "to devise such measures and take such action as the safety and welfare of the loyal citizens of Virginia may demand." This Convention was formal in every respect. It was to be composed of the members of the legislature previously duly elected under the existing constitution and laws, and of delegates proportioned to the population of the counties, each being entitled to at least one.

The convention duly assembled, having delegates from counties situated to the East as well as to the West of the Alleghanies. On the 13th of June, 1861, they unanimously adopted a declaration of right, in which, after briefly reciting the acts of the usurping

convention and executive, "in the name and on the behalf of the good people of Virginia," they solemnly declare "that the preservation of their dearest rights and liberties, and their security in person and property, imperatively demand the reorganization of the government of the commonwealth; and that all acts of the convention and executive tending to separate this commonwealth from the United States, or to levy and carry on war against them, are without authority and void; and that the offices of all who adhere to the said constitution and executive, whether legislative, executive or judicial, are vacated." Is there a loyal man anywhere who will dissent from the operative part of this declaration?

The loyal convention then proceeded to appoint for a limited period a Governor and other executive officers, and to pass such ordinances as the circumstances in which their constituents were placed required, but carefully abstained from any alteration of the State constitution not imperatively demanded by the exigencies of the time. They directed the Legislature, elected under the old regime, to assemble at Wheeling within a month, requiring the members to take an oath to support the re-organized government; which body, in due time, provided for an election by the people of the officers temporarily appointed by the convention and elective under the constitution, and re-appointed the others. Since then the government has been administered under the constitution and laws theretofore in force. The courts of justice have been open in every part of the State not occupied by the rebels; taxes have been levied and collected, and, in short, all the powers of a regularly organized government have been exercised and respected.

The gravamen of the charge preferred by the loyal people of the State through their convention is, that the powers of the State government, granted for the promotion of the welfare and the protection and security of the people, had been, by those formerly charged with their administration, perverted to their injury and oppression. This is the very case which the Act of Ratification of Virginia declares would justify a resumption by the people of the United States of the powers granted under their constitution. The principles established by the great revolutions of the sixteenth, seventeenth and eighteenth centuries—the Dutch, the English and the American—are confidently appealed to for example and justification wherever free government, or the love of it, finds a resting place. To those principles and to the acts which led to and accompanied their promulgation, the loyal people of Virginia confidently appeal for the vindication of the measures they solemnly, and with a due sense of their responsibility, adopted, in the difficult circumstances in which they were placed.

On the 26th of July, 1581, the United Provinces of the Netherlands, having then passed through fifteen of the eighty years of their war of independence, renounced their allegiance to Phillip II of Spain by a solemn act of abjuration. In that instrument they

set forth the grievances they had suffered at his hands for a quarter of a century, and declared "that they were sufficiently justified in forsaking a sovereign who for more than twenty years had forsaken them." In the preamble they say: "All mankind know that a prince is appointed by God to cherish his subjects, even as a shepherd his sheep; When, therefore, the prince does not fulfill his duty as protector; when he oppresses his subjects, destroys their ancient liberties, and treats them as slaves, he is to be considered, not a prince, but a tyrant. As such, the estates of the land may lawfully and reasonably depose him, and elect another in his room."

A little more than a century later, on the 12th of February, 1688–9, the Lords and Commons of England, sitting, not in Parliament, but in a convention of two houses, published a Declaration of Right, by which they deposed their king, James II, and called William and Mary to the throne. "The Declaration," says Macaulay, "began by recapitulating the crimes and errors which made a revolution necessary. James had invaded the province of the Legislature; had treated modest petitioning as a crime; had oppressed the church by means of an illegal tribunal; had, without the consent of Parliament, levied taxes and maintained a standing army in time of peace; had violated the freedom of elections, and perverted the course of justice. Proceedings which could lawfully be questioned only in Parliament had been made the subjects of prosecution in the King's Bench. Partial and corrupt juries had been returned. Excessive bail had been required from prisoners; excessive fines had been imposed; barbarous and unusual punishments had been inflicted; the estates of accused persons had been granted away before conviction. He, by whose authority these things had been done, had abdicated the government."

It is unnecessary to quote at length from the Declaration of Independence by which our sires declared themselves absolved from all allegiance to the British crown and claimed their political independence. They too set forth their grievances, and plainly declared that, whenever a government becomes destructive of the ends for which it was instituted, it is the right of the people to alter or abolish it, and to provide new guards for their future security. This principle was the basis of action in the preceding resolutions, as it was of the proceedings of the loyal people of Virginia in 1861.

In the first two cases there was no change in the form of government, although the United Provinces subsequently became a republic; nor has any such change been made or attempted by the loyal people of Virginia. A simple deposition of the officers who had perverted the powers with which they had been intrusted was made, and the vacancies filled by new appointments, and then the new constitution of 1850–51 and the laws made under it were again in force. If it was a revolution, it was produced by intolerable grievances, and was conducted with all the formalities of the world-approved and time-honored precedents we have cited. The complaint was not that oppressive laws had been passed in legal form; but that the measures inaugurated by the usurpers, and which they were attempting to enforce,

tended to the overthrow of the very foundations of the government, and the substitution of an oligarchy or military despotism.

The reorganized government has been formally recognised by the executive, by the Congress, and in one instance at least by the judiciary of the United States. Elections, under its authority, for Representatives in Congress, have been held in the East as well as in the West, and those elected have been admitted to seats in that body. Its legislature is the legislature of the whole State, and is competent to do what any previous legislature could have done. The fact, that in a large portion of the State the citizens are in open rebellion, cannot affect its constitutionality or the extent of its powers, although the exercise of the latter is temporarily circumscribed. Nor does it detract from its authority to do all that the Constitution permits, that there are numerous vacancies in its membership. Are not the two houses sitting at Washington the constitutional Congress of the United States, although the exercise of its authority is also temporarily circumscribed and many of its seats are unoccupied? There can be but one reply to this question; and the same reply must be given when a similar inquiry is made as to the legislature recently in session at Wheeling.

If that legislature is legally competent to do any act whatever, it was competent to give the consent of the State of Virginia to the formation and erection of the State of West Virginia within the jurisdiction of the former. Say that it was ungenerous or unwise to act upon the question at a time like this, still the consent given was a legal and constitutional consent; and that, with the approbation of a majority of the voters voting on the subject, and the consent of Congress, is all that is required to place West Virginia by the side of Vermont, Kentucky and Maine. But we contend that the movement was neither ungenerous nor unwise. Are we expected to seek the approbation of those who have disfranchised themselves by their disloyalty? The reorganized government will remain the constitutional government of the residue of Virginia, with power to extend its operations as fast and as far as the progress of the Union armies will permit; and in whatever way the national difficulties may be adjusted, the reorganized and the proposed governments must be recognised as the governments of States of the United States, on an equal footing with the original States.

We have thus disposed of the last, and, as our opponents profess to think, the most formidable objection to the erection of the proposed State. We have dwelt upon it at more length than was necessary simply to confute it. We embraced this opportunity to show upon what impregnable foundations the reorganized government of Virginia has been reared. It was due to those who composed the Convention of June 1861, and to the people who have approved and ratified what they proposed, to vindicate their bold, but deliberate and well considered act, against the aspersions by which it has been recently assailed.

We deem it superfluous to urge you to use your best exertions to secure a full vote in favor of the amended Constitution. You are too well aware of the numerous advantages a separate organization will secure to you and your

posterity, to yield to objections preferred, for the most part, by those whose sympathies are with the rebels who are seeking your destruction. These objections, however plausibly urged, do not relate to matters which can have any practical effect upon your welfare, or the prosperity of the proposed State. Your duty in all cases is to promote the moral and material interests of yourselves, your children, your fellow-citizens, and your country. No case can be presented for your consideration and action where the opportunity to secure that result is more certainly in your power. A unanimous, or nearly unanimous, vote of the people, accepting the amended constitution, will be the most effectual refutation of all the objections that have been or can be urged.

By order of the Convention,

A. D. SOPER,
*President of the Convention.*

ELLERY R. HALL, *Secretary.*